

Before the
MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Mumbai 400005
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Case No. 78 of 2020

Date: 25 April, 2020

**CORAM: Anand B. Kulkarni, Chairperson
I.M. Bohari, Member
Mukesh Khullar, Member**

Petition of ACME Heergarh Powertech Pvt. Ltd. seeking directions against Maharashtra State Electricity Distribution Limited for declaring the Power Purchase Agreement dated 21 August, 2019 executed between ACME Heergarh Powertech Pvt. Ltd. and Maharashtra State Electricity Distribution Company Limited stands frustrated on account of force majeure and impossibility of performance and consequential relief.

ACME Heergarh Powertech Pvt. Ltd. Petitioner

V/s.

Maharashtra State Electricity Distribution Company Limited. Respondent

Ad-interim Order

1. ACME Heergarh Powertech Pvt. Ltd. (AHPPL) Solar has filed the Petition on 24 April, 2020 seeking directions against Maharashtra State Electricity Distribution Company Limited (MSEDCL) relating to the Power Purchase Agreement dated 21 August, 2019 executed between AHPPL and MSEDCL. AHPPL has also submitted the application for urgent listing and hearing of the Case along with the Stay application dated 24 April, 2020 requesting the Commission to grant *ad interim ex-parte* stay against invocation of Performance Bank Guarantee or initiation of any coercive steps by MSEDCL on account of its failure to achieve financial closer and performance obligations because of outbreak of COVID -19 and imposition of lockdown.
2. The Commission notes that as per PPA, Financial Closure is to be achieved by 25 April 2020 and failing which Performance Bank Guarantee (PBG) can be invoked. Further, as

confirmed from MSEDCL, PBG of AHPPL is stated to be valid till 31 January 2022. Hence, in the opinion of the Commission, no harm will be caused to MSEDCL, if ad-interim relief is granted to the AHPPL till final disposal of this matter.

3. Hence, the Commission deems it fit to invoke its power under Regulations 81 of the MERC (Conduct of Business) Regulations, 2004 and directs status-quo to be maintained by the parties in the matter. MSEDCL shall not initiate any coercive action in the matter till final disposal of the main Petition. At the same time, the Commission clarifies that it has not gone into merits of the matter and that the status quo will not have any impact on outcome of the main matter.
4. MSEDCL is directed to file its Replies in the matter within 10 days i.e. by 6 May 2020 with copy to the AHPPL, which in turn can file Rejoinder, if any, within 7 days thereafter.

The date of hearing will be informed by the Secretariat of the Commission.

Sd/-
(Mukesh Khullar)
Member

Sd/-
(I. M. Bohari)
Member

Sd/-
(Anand B. Kulkarni)
Chairperson